

Rule 6.109

**Filing of Confidential or Exempt Document**

**1. Definition**

“Confidential information” means information, documents, or records that are of a confidential or proprietary nature pursuant to Mississippi or other applicable law.

**2. Trade Secrets**

Pursuant to Miss. Code Ann. § 75-26-3, “trade secrets” may be confidential and may include but are not limited to, information, including a formula, pattern, compilation, program, device, method, technique or process, that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, others person who can obtain economic value from its disclosure or use; and (b) is subject of efforts that are reasonable under the circumstances to maintain its secrecy.

**3. Specific Items**

(a) Items included in rate schedule pursuant to Miss. Code Ann. § 77-3-35 are not confidential and shall not be treated as such.

(b) Information that is related to the establishment of, or changes in, utility rates regulated by the Commission shall be presumed not to be confidential. If a utility seeks confidential designation for any such item, the utility shall make a filing pursuant to section 5(b) of this rule.

**4. Required Placement in Envelope**

For paper copies, the page(s) containing the trade secret or confidential information shall be placed in an envelope other than white. Each page placed in the envelope shall be marked as “TRADE SECRETS” or “CONFIDENTIAL”.

**5. Procedure**

(a) Whenever a party believes that information contained in pleadings or other documents are trade secrets, confidential or otherwise exempt from public disclosure, the party shall designate that the information is protected by law from public inspection, examination or copying. Trade secrets or confidential information contained in documents will be removed and replaced by the filing party with a page marked: “This document contains trade secrets or confidential material and is separately filed.” All materials for which no assertion of protection from public inspection, examination and copying is made will be placed in files available for public inspection. Trade secrets, confidential information and other records exempt from public inspection shall be separately stored in a secured location with limited access and safeguarded from unauthorized disclosure.

(b) A filing seeking confidential designation of an item as described in section 3(b) of this Rule must be made at least 30 days prior to the filing or submission of said information. The Commission may, in its discretion, waive the 30 day requirement if it is determined that such waiver is in the best interest of rate payers.

**6. Protective Agreements**

In proceedings before the Commission involving trade secrets other confidential information, parties may enter in to protective agreements to facilitate and safeguard the exchange of necessary information. Protective agreements may include procedures for copying, exchanging, serving, safeguarding, or challenging the characterization of trade secrets or confidential information. The Commission and the Staff shall not be a party to protective agreements and will not be bound by the terms of protective agreements.



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